

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 939 - SB 795

April 23, 2019

SUMMARY OF ORIGINAL BILL: Extends, from 10 to 30 days, the time period following a school assignment that a parent, legal guardian, or attorney of a student, who is dissatisfied with the student's assignment, may write to the local school board to request a hearing before the board to challenge the assignment and ask for a transfer to another school.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (008453, 008599, 008684): Amendment 008453 deletes all language after the enacting clause. Creates the Tennessee Education Savings Accounts Act (ESA). Requires a participating student to participate in the program until the student enrolls in a public school, graduates or withdraws from high school, or reaches 22 years of age between the commencement of the school year and the conclusion of the school year, whichever occurs first, unless the student is suspended or terminated from participating in the program. Authorizes a participating student to return to the student's LEA after enrolling in the program, and after returning, requires the student's ESA to be closed and any remaining funds to be returned to the State Treasurer. Requires returned funds to the State Treasurer be placed in the Basic Education Program (BEP) Education Trust Fund of 1992, if the student ceases to be a resident of Tennessee. Sets parameters for the use of funds in a student's ESA upon the student graduating high school or exiting the program by reaching 22 years of age and applying those funds to a postsecondary institution.

Requires the Department of Education (DOE) to establish procedures to determine student eligibility and develop an application form and approval process. Requires the program to begin enrolling participating students by the 2021-22 school year. Limits program participation to an exact number of students for various years. Requires DOE to select students for participation in the program through a random enrollment lottery process, if the number of program applications received by the department exceeds the maximum number of students that may participate in the program for that school year. Requires the maximum annual amount that a student is entitled under the program to be equal to the per pupil state and local funds generated through the BEP for the LEA in which the student resides. Establishes a school improvement fund to be administered by DOE for the three fiscal years in which the program accepts students. Requires

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disbursements in the form of an annual grant to each LEA with participating students to be used for school improvements.

Requires DOE to post on its website the list of participating schools, the grades taught, and other information that may assist parents in selecting a participating school. Authorizes DOE to deduct six percent from the annual ESA award amount to cover the costs of overseeing the funds and administering the program. Authorizes DOE to contract with a non-profit organization to administer some or all portions of the program. At the conclusion of the first fiscal year that the program enrolls students, requires DOE to publish an annual report on its website that contains information about the program for the previous school year. On January 1st following the third fiscal year that the program enrolls students, requires DOE to provide a report about the program for the most recent year to the General Assembly.

Amendment 008684 deletes and adds language to amendment 008453 such that the only substantive changes are to limit student participation in the program as follows: 5,000 students in the first year; 7,500 students in the second year; 10,000 students in the third year; 12,500 students in the fourth year; and 15,000 students in the fifth year and each year after.

Amendment 008599 adds language to amendment 008453 to specify that an ESA is a state or local public benefit.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

**Increase State Expenditures – \$771,300/FY19-20
\$2,767,100/FY20-21
\$28,729,700/FY21-22 and Subsequent Years**

**Increase Local Expenditures – Exceeds \$192,500/FY21-22 and Subsequent
Years***

Other Fiscal Impact – There will be a shift in BEP funding amongst local education agencies estimated as follows: \$36,881,150 in FY21-22; \$55,321,725 in FY22-23; \$73,762,300 in FY23-24; \$92,202,875 in FY24-25; and \$110,643,450 in FY25-26 and subsequent years.

In addition, if students enrolling in the program are part of a Title I local education agency and attends a private school that participates in federal grants, recurring local expenditures could increase by unknown amounts.

Assumptions for the bill as amended:

- A student who enrolls in the ESA Program will not also be enrolled in the Individualized Education Account Program.
- This legislation defines eligible student as a student zoned to attend a school in an LEA with three or more schools among the bottom 10 percent and a member of a family with an annual household income that does not exceed twice the federal income eligibility guidelines for free lunch.
- There are six local education agencies (LEAs) with three or more schools in the bottom 10 percent. Based on data from the state's education information system (EIS), there are 161,778 students in those LEAs who are eligible for direct certification.
- Student participation in the program will be limited as follows:
 - 5,000 students in the first year
 - 7,500 students in the second year
 - 10,000 students in the third year
 - 12,500 students in the fourth year
 - 15,000 students in the fifth year and each year after
- DOE will require one-time and recurring expenditures related to administration of the program, including but not limited to system programming, equipment costs, personnel salary and benefits, contract services, meeting and travel costs, and other operational costs.
- The Department of Finance and Administration (F&A) will require one-time and recurring administrative expenditures for managing the funds.
- An amount of \$25,000,000 will be used to fund student ESAs beginning in FY21-22 and subsequent years.
- For DOE, the increase in state expenditures is estimated to be: \$771,315 in FY19-20 (\$191,755 salary, benefits, and position costs + \$565,000 systems development and updates + \$14,560 meeting and travel costs); \$2,472,373 in FY20-21 (\$2,256,248 salary, benefits, and position costs + \$69,565 mailing + \$62,000 systems maintenance + \$70,000 appeals, translation, and interpretation services + \$14,560 meeting and travel costs); and \$3,586,771 in FY21-22 and subsequent years (\$3,360,646 salary, benefits, and position costs + \$69,565 mailing + \$62,000 systems maintenance + \$70,000 appeals, translation, and interpretation services + \$24,560 meeting and travel costs).
- F&A will require 13 additional part-time positions for a duration of 2 months to load new account holders into Edison. The one-time increase in state expenditures is estimated to be \$151,822 in FY20-21. F&A will require two additional full-time positions in FY20-21 and subsequent years, which is estimated to result in a recurring increase in state expenditures of \$142,949.
- DOE will require additional funding related to administration of the program, including but not limited to system programming, equipment costs, personnel salary and benefits, contract services, meeting and travel costs, and other operational costs. The total increase in state expenditures is estimated as follows:
 - \$771,315 in FY19-20
 - \$2,767,144 in FY20-21 (\$2,472,373 + \$151,822 + \$142,949)
 - \$28,729,720 in FY21-22 and subsequent years (\$25,000,000 + \$3,586,771 + \$142,949)

Local Impact Assumptions:

- There would be an increase in LEA expenditures to administer state assessments to students. It is estimated that it would cost LEAs an additional \$73.24 per student who would return to the LEA to test.
- Approximately 41 out of 137 (or 30 percent) students in the Individualized Education Account (IEA) Program attend a participating school, and it is assumed a similar percentage of students in the ESA Program would attend a participating school; which means 70 percent of students attend a nonparticipating school, including home school.
- Assuming 5,000 students participate in the ESA Program, 3,500 (5,000 x 70%) students in the ESA Program would attend a nonparticipating school. Students are required to take the state assessments in grades 3-11, so an estimated 2,628 students will take assessments.
- The mandatory recurring increase local expenditures is estimated to exceed \$192,475 (2,628 x \$73.24) in 2021-22 and subsequent years with an additional increase each year reflecting the increase in students; the increase in state education expenditures cannot be reasonably determined.

Assumptions relative to Other Fiscal Impacts:

- The proposed legislation will result in a shift in BEP funding amongst LEAs (assumes \$7,376.23 per pupil) as follows:
 - FY21-22 : \$36,881,150
 - FY22-23 : \$55,321,725
 - FY23-24 : \$73,762,300
 - FY24-25 : \$92,202,875
 - FY25-26 : \$110,643,450
- If a student enrolling in the ESA Program is in a Title 1 LEA and attends a private school that participates in federal grants, the LEA's equitable services cost would increase for that student because the equitable services funds that LEAs have to pass along is based on the number of students in private schools. However, the LEA's federal funding will not increase, so they will have to pay out more funding, but not receive any additional funding.
- The amount of additional funding that will be passed along to private schools cannot be reasonably determined, but if 5,000 students attended participating private schools, the potential maximum amount would be: \$4,000,000 from Title I; \$200,000 for Title II; and \$185,000 for Title IV (spread across the districts involved and their surrounding districts).

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/alh